MONTANA LEGISLATIVE HISTORY

Chapter 373 1995

Bill H 360 S _____ Original bill & history ✓ C

H. Committee on Taxation			S. Committee on Business & Industry		
Hearing Date(s)	2-2	___C	Hearing Date(s)	3-2	___C
	_____	___C		_____	___C
	_____	___C		_____	___C
	_____	___C		_____	___C
Date Out	2-2	___C	DATE OUT	3-2	

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

4/10	3RD READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	41	8
4/11	SIGNED BY SPEAKER		
4/12	SIGNED BY PRESIDENT		
4/17	TRANSMITTED TO GOVERNOR		
5/12	SIGNED BY GOVERNOR CHAPTER NUMBER 591 EFFECTIVE DATE: 10/01/95		

HB 359 INTRODUCED BY SIMPKINS

ALLOW LICENSURE OF OPTOMETRISTS BASED ON ENDORSEMENT OF CREDENTIALS

1/27	INTRODUCED		
1/27	FIRST READING		
1/27	REFERRED TO BUSINESS & LABOR		
2/02	HEARING		
2/03	TABLED IN COMMITTEE		
2/23	MISSED TRANSMITTAL DEADLINE DIED IN COMMITTEE		

HB 360 INTRODUCED BY QUILICI, ET AL.

PROVIDE EXCEPTION TO ORIGINAL COST RULE WHEN A PUBLIC UTILITY PURCHASES CERTAIN PROPERTY

1/27	INTRODUCED		
1/27	FIRST READING		
1/27	REFERRED TO TAXATION		
1/28	FISCAL NOTE REQUESTED		
2/01	FISCAL NOTE RECEIVED		
2/01	FISCAL NOTE PRINTED		
2/02	HEARING		
2/03	COMMITTEE REPORT—BILL PASSED		
2/04	2ND READING PASSED	89	3
2/06	3RD READING PASSED	97	1
	TRANSMITTED TO SENATE		
2/07	FIRST READING		
2/07	REFERRED TO BUSINESS & INDUSTRY		
3/02	HEARING		
3/03	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/08	2ND READING CONCURRED	48	0
3/09	3RD READING CONCURRED	45	2
	RETURNED TO HOUSE WITH AMENDMENTS		
3/31	2ND READING AMENDMENTS CONCURRED	93	3
4/03	3RD READING AMENDMENTS CONCURRED	91	8
4/05	SIGNED BY SPEAKER		
4/06	SIGNED BY PRESIDENT		
4/07	TRANSMITTED TO GOVERNOR		
4/12	SIGNED BY GOVERNOR CHAPTER NUMBER 373 EFFECTIVE DATE: 04/12/95		

HB 361 INTRODUCED BY KADAS, ET AL.

PROHIBIT MUNICIPALITIES FROM ENACTING ZONING PROVISIONS THAT REGULATE NUMBER OF PERSONS WHO MAY RESIDE IN A DWELLING BASED SOLELY ON THE RELATIONSHIP OF THE PERSONS

1/27	INTRODUCED		
1/27	FIRST READING		
1/27	REFERRED TO LOCAL GOVERNMENT		
2/09	HEARING		

BILL NO	REFERRED	HEARING	OTHER CONSIDERATION DATES	EXECUTIVE ACTION/DATE/VOTE	REREFERRED	DATE READ
HB0353	WISEMAN, WILLIAM 1/27	2/01	TAX REFUND TO JET FUEL SOLD TO FEDERAL DEFENSE FUEL SUPPLY CENTER	TABLED ON 02/02 VOTE:		
HB0360	QUILICI, JOE 1/27	2/02	EXCEPT PUBLIC UTILITY BUYING CERTAIN PROPERTY FROM ORIGINAL COST RULE	DO PASS VOTE:		2/03
HB0363	SWANSON, EMILY 1/27	2/10	GENERALLY REVISE THE TAXATION OF MOTOR VEHICLES AND TRAILERS	PASS AS AMENDED VOTE:		3/20
HB0383	ELLINGSON, JON 1/30	2/08	REMOVE $20,000 FROM RESIDENTIAL VALUE -- LIMIT FEDERAL DEDUCTABILITY	TABLED ON 03/03 VOTE:		
HB0389	LARSON, DON 1/31	2/09	ALLOW ELECTED COUNTY ASSESSORS TO BE AGENTS OF DEPT OF REVENUE	PASS AS AMENDED VOTE:		2/13
HB0413	STOVALL, JAY 2/02	2/14	CLARIFY THE TAXABLE VALUATION ALLOCATION FOR HARD-ROCK MINING IMPACT	TABLED ON 03/03 VOTE:		
HB0418	DEVANEY, CHARLES 2/03	2/21	INCREASE PRIVILEGE AND LICENSE TAX ON OIL AND NATURAL GAS PRODUCERS	PASS AS AMENDED VOTE:		3/01
HB0424	KEENAN, BOB 2/03	2/15	CLARIFY THAT 24-MONTH REDEMPTION PERIOD APPLIES ONLY TO SIDS AND RSIDS	PASS AS AMENDED VOTE:		2/15
HB0449	SWANSON, EMILY 2/06	2/14	AUDITOR OFFSET DELINQUENT PROPERTY TAXES AGAINST STATE WARRANTS	PASS AS AMENDED VOTE:		2/15
HB0465	RYAN, WILLIAM 2/08		ACCOMMODATIONS TAX -- LOCAL FACILITIES GRANTS -- NO REGIONAL DISTRIBUTION	VOTE:		
HB0469	KITZENBERG, SAM 2/08	2/16	ENCOURAGE SCHOOL-TO-WORK PROGRAMS WITH BUSINESS TAX CREDIT AND WORK COMP LAW	TABLED ON 03/01 VOTE:		
HB0470	KITZENBERG, SAM 2/08	2/16	INDEX REVENUE TO BE RAISED BY TAXING UNITS WITH STATIC OR DECLINING REVENUE	TABLED ON 03/01 VOTE:		

House BILL NO. 360

INTRODUCED BY

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING AN EXCEPTION TO THE ORIGINAL COST RULE WHEN A PUBLIC UTILITY PURCHASES PROPERTY FROM ANOTHER PUBLIC UTILITY; AMENDING SECTION 69-3-109, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 69-3-109, MCA, is amended to read:

"**69-3-109. Ascertaining property values.** The commission may, in its discretion, investigate and ascertain the value of the property of ~~every~~ each public utility actually used and useful for the convenience of the public. The commission is not bound to accept or use any particular value in determining rates~~;~~. ~~provided, that~~ However, if any value is used, ~~such~~ the value may not exceed the original cost of the property, except that the commission may include all or some of the acquisition cost of property purchased by a public utility from another public utility in the purchasing utility's rate base if the transfer of the property to the purchasing utility is in the public interest. In making ~~such~~ the investigation, the commission may avail itself of all information contained in the assessment rolls of various counties~~,~~ or in the public records of the various branches of the state government~~,~~ or of any other information obtainable, and the commission may at any time ~~of~~ on its own initiative make a revaluation of ~~such~~ the property."

NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0360, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:
An act providing an exception to the original cost rule when a public utility purchases property from another public utility.

ASSUMPTIONS:
1. This legislation could increase the Public Service Commission (PSC) work load because of increased purchases and sales between utilities. However, there is no accurate way, at this time, to project this work load or the possible fiscal impact.

FISCAL IMPACT:
There is no known fiscal impact to the Public Service Commission.

Dave Lewis 3-1-95

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

JOE QUILICI, PRIMARY SPONSOR DATE

Fiscal Note for HB0360, as introduced

HB 360

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN CHASE HIBBARD**, on February 2, 1995, at 8:00 A.M.

ROLL CALL

Members Present:

Rep. Chase Hibbard, Chairman (R)
Rep. Marian W. Hanson, Vice Chairman (Majority) (R)
Rep. Robert R. "Bob" Ream, Vice Chairman (Minority) (D)
Rep. Peggy Arnott (R)
Rep. John C. Bohlinger (R)
Rep. Jim Elliott (D)
Rep. Daniel C. Fuchs (R)
Rep. Hal Harper (D)
Rep. Rick Jore (R)
Rep. Judy Murdock (R)
Rep. Thomas E. Nelson (R)
Rep. Scott J. Orr (R)
Rep. Bob Raney (D)
Rep. John "Sam" Rose (R)
Rep. William M. "Bill" Ryan (D)
Rep. Roger Somerville (R)
Rep. Robert R. Story, Jr. (R)
Rep. Emily Swanson (D)
Rep. Jack Wells (R)
Rep. Kenneth Wennemar (D)

Members Excused: None.

Members Absent: None

Staff Present: Lee Heiman, Legislative Council
Donna Grace, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing:	HB 360
	HB 346
Executive Action:	HB 360 - Do Pass
	HB 237 - Discussion only
	HB 293 - Do Pass as Amended
	HB 353 - Tabled

{Tape: 1; Side: A.}

HEARING ON HB 360

Opening Statement by Sponsor:

REP. JOE QUILICI, House District 36, Butte, opened the hearing by stating that HB 360 would provide an exception to the "original cost" rule when a public utility purchases property from another public utility. The current law provides that a utility is allowed to recover its expenses plus a reasonable return on capital. However, the current statute prohibits the PSC from allowing more than the original cost in the rate base. This means that when a utility purchases property from another utility, any amount over the original cost, minus depreciation, is excluded from the rate base. This bill would allow, but not require, the PSC to include the entire investment in the rate base if it finds the sale is in the public's interest.

Proponents' Testimony:

Nancy McCaffree, Chairperson, Public Service Commission, testified in favor of the bill. Her comments are contained in EXHIBIT 1.

Marjorie Thomas, Montana Power Company, rose in support of the bill. The original cost rule was put into place to prevent utilities from passing property back and forth and escalating the price. There are now entities other than utilities that are competing for property. When a piece of property comes up for sale it is not automatically transferred to another utility. It may be put up for bid and Montana Power Company has had two instances in the past year where the bid was lost because they could not bid above the original cost. If they could have obtained the property, it would have resulted in reduced rates for consumers.

John Alke, Montana-Dakota Utilities, spoke in favor of the bill. He said he had been litigating rate cases in Montana for many years and provided an example where Montana-Dakota Utilities was penalized for making a wise decision because the PSC was precluded by Montana law from including the full price in the rate base. **Mr. Alke** said the PSC should have the discretion to use the full purchase price in setting rates and he encouraged the Committee to support the bill.

Tom Hopgood, Citizens Telecommunications Company of Montana, said his company owns a small service area in the northwest part of the state and when they recently purchased property from GPE Northwest, they found themselves in the same situation as Montana-Dakota Utilities. They would like to have the option of using the acquisition price when they file a rate case.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

REP. BOHLINGER asked if the exemption in the bill would still protect the public's interests and possibly lower rates. **Ms. McCaffree** replied that it would as long as it remained discretionary.

REP. ROSE asked if this change had been approved by the Consumer Council. **REP. QUILICI** said it had been.

REP. MURDOCK asked if an inflated rate could be passed on to the consumer in the event a major utility purchased a piece of property at an inflated rate. **Dan Elliott, PSC,** replied that the way the bill is written, that would not be in the public's best interest, and the Commission would not include any excess above the original cost. **REP. MURDOCK** asked if it wasn't more likely that the rates to the consumer would go up rather than down. **Mr. Elliott** said it would depend on the circumstances in the case but if the Commission does its job properly in implementing this legislation, the rates would probably be lower than they would be without this bill.

REP. STORY asked if the legislation would increase work for the Commission. **Mr. Elliott** said that any time there is a potential for increased acquisition by utilities, particularly when they are above the original cost, it will increase the Commission's workload.

Closing by Sponsor:

In closing, **REP. QUILICI** emphasized that the provisions in this bill are entirely permissive and it does not mandate that the commission has to accept the acquisition cost. It does set a flexible standard and it must be proved that it is within the public's interest. If a utility needs more capacity and can show that a useful utility could be acquired, and they cannot use the acquired cost in setting rates, they could build a new facility which would, in most cases, cost much more than it would have been had they been able to acquire the existing utility. **REP. QUILICI** asked for the Committee's favorable action because this bill is in the public's interest.

HEARING ON HB 346

Opening Statement by Sponsor:

REP. JIM ELLIOTT, House District 72, Trout Creek, said that HB 346 would offer substantial property tax relief for Montana homeowners. There are rising assessments in the western part of

Closing by Sponsor:

In closing, **REP. ELLIOTT** advised the Committee that Gordon Morris, representing the Montana Association of Counties, had been unable to attend the hearing and had asked him to report that MACO is in support of this bill. He thanked the Committee for a pleasant hearing.

EXECUTIVE ACTION ON HB 360

CHAIRMAN HIBBARD advised that because he is a member of the Board of Directors of the Montana Power Company, he would abstain from voting on HB 360. He turned the chair over to Vice Chairperson Hanson.

Motion:

REP. ROSE MOVED THAT HB 360 DO PASS.

Discussion:

REP. SOMERVILLE asked for further clarification of the bill. **REP. HIBBARD** explained that when a utility builds a facility to produce power, they are allowed to put the cost of the building into the rate base. The problem is when a utility buys a property and has to pay more than its depreciated cost, it is not allowed to recover the cost in the rate base even though it may have been in the public's interest to purchase the utility at a market value above its depreciated cost. The alternative is to build a structure at a much greater cost and the consumers end up paying more. The reason for the statute apparently was that during the depression it was abused and faulty transactions were made for the purpose of raising rates. The provision in the bill will be allowed only if it is determined by the PSC to be in the public's interest.

Vote:

On a voice vote, the motion passed 16 - 1.

EXECUTIVE ACTION ON HB 237

Motion:

REP. ELLIOTT MOVED THAT HB 237 DO PASS.

Discussion:

REP. ELLIOTT supported his motion by stating that the investment credit is one of the few tax breaks that can be given to businesses with guaranteed results because the business has to buy new equipment before they can get the credit. The bill would

HOUSE OF REPRESENTATIVES

Taxation

ROLL CALL DATE Feb. 2, 1995

NAME	PRESENT	ABSENT	EXCUSED
Rep. Chase Hibbard, Chairman	✓		
Rep. Marian Hanson, Vice Chairman, Majority	✓		
Rep. Bob Ream, Vice Chairman, Minority	✓		
Rep. Peggy Arnott	✓		4+1
Rep. John Bohlinger	✓		
Rep. Jim Elliott	✓		
Rep. Daniel Fuchs	✓		
Rep. Hal Harper	✓		
Rep. Rick Jore	✓		
Rep. Judy Rice Murdock	✓		
Rep. Tom Nelson	✓		
Rep. Scott Orr	✓		
Rep. Bob Raney	✓		
Rep. Sam Rose	✓		
Rep. Bill Ryan	✓		
Rep. Roger Somerville	✓		
Rep. Robert Story	✓		
Rep. Emily Swanson	✓		
Rep. Jack Wells	✓		
Rep. Ken Wennemar	✓		

EXHIBIT 1
DATE 2/2/95
HB 360

Testimony: House Bill 360 Given by: Nancy McCaffree, Chair
2 February 1995
House Taxation

Mr. Chairman and members of the Committee:

One of the principle statutes that governs how the PSC sets rates is the "original cost" law. A utility company's rate base generally reflects the original cost of plant and equipment devoted to public service, less depreciation - or book value. The determination of book value is a fairly straightforward matter when a utility purchases or constructs new plant and equipment, but becomes more complicated when it purchases used assets from another company.

The general rule is that the original cost of property purchased by a utility is the depreciated cost of the property to the first owner devoting it to public service. Thus, if a utility purchases assets from another utility at a price which exceeds the book value, then the purchaser's rate base is limited to the book value.

This is necessary to prevent utilities from artificially inflating rate bases by acquiring property at unrealistically high prices. Also, once property is devoted to public service, ratepayers should not have to pay twice for the same asset because the property is sold to another utility. Such sales between utilities during the period before 1930, and the "watered

common stock" that was used to pay for them is thought to be a significant factor contributing to the Great Depression.

Under some circumstances the public interest may be served by allowing into ratebase a purchase price above book value, i.e. original cost depreciated. For example, picture a small utility not regulated by the PSC, such as a cooperative, with a small service territory surrounded by a larger utility, regulated by the PSC. It may be the larger utility could more than offset a purchase price higher than book value for the property with operating efficiencies, i.e. consolidation of payroll functions, office building functions, etc. Under the present law, the PSC probably cannot include more than the original cost purchase price (book value) in the purchaser's rate base.

The Public Service Commission supports the bill as written. The bill is permissive and specifies that the Commission must find that purchase prices above original cost depreciated (book value) are in the public interest before they may be added to rate base. If this bill, as written, is enacted into law, the PSC will review very carefully the factual circumstances of each request before including values above original cost as part of the purchasing utilities rate base.

We urge the Committee not to change the permissive language of House Bill 360.

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Location COMMITTEE BILL NO. HB 360

DATE 2/2/95 SPONSOR(S) Rep. Juilini

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
NANCY McCAFFREE	PSC			✓
MARGIE THOMAS	MPC			✓
John Alke	MDU			✓
DAN Walker	USWEST			✓

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE STANDING COMMITTEE REPORT

February 2, 1995

Mr. Speaker: We, the committee on **Taxation** report that **House Bill 360** (first reading copy -- white) **do pass**.

Signed: _____
Chase Hibbard, Chair

Committee Vote:
Yes 16, No 1.

281241SC.Hbk

BILL NO	REFERRED	HEARING	OTHER CONSIDERATION DATES	EXECUTIVE ACTION/DATE/VOTE	REREFERRED	DATE READ
HB0243	MENAHAN, RED 1/24	2/07	ALLOW ELECTRICIANS TO RENEW LICENSE WITHOUT EXAM WITHIN 1 YR UPON FEE PMT	CONCUR 2/07 VOTE: 8-1		2/07
HB0286	PAVLOVICH, BOB 2/01	3/08	CLARIFY PROHIBITION OF COERCIVE BEER PRICING	CONCUR AS AMENDED 3/08 VOTE: UNAN		3/09
HB0307	HARRINGTON, DAN 3/24	3/27	EXPRESS "TITLE ONLY" STATUTE FOR USED MOTOR VEHICLE DEALERS	CONCUR 3/27 VOTE: UNAN		3/28
HB0310	BARNETT, JOE 1/31	3/01	ALLOW REGULATED COMPANIES TO RECOVER IN THEIR RATES CONSUMER COUNCIL FEES	CONCUR 3/01 VOTE: UNAN		3/02
HB0326	COCCHIARELLA, VICKI 2/07	3/02	PROVIDE THE RIGHT TO ASK WORKER FOR PROOF OF LICENSE AS ELECTRICIAN/PLUMBER	CONCUR AS AMENDED 3/02 VOTE: UNAN		3/03
HB0335	SQUIRES, CAROLYN 2/20	3/14	CREATE THE MONTANA WHEELCHAIR WARRANTY ACT	CONCUR 3/14 VOTE: UNAN		3/15
HB0336	BARNETT, JOE 2/06	3/01	REVISE BAIL BOND LAWS AND SURETY INSURANCE EDUCATION REQUIREMENTS	CONCUR 3/02 VOTE: UNAN	JUDICIARY	3/03
HB0342	PAVLOVICH, BOB 2/20	3/08	REVISE CONTRACTUAL RELATION IN DISTRIBUTION OF TABLE WINE	CONCUR 3/08 VOTE: 5-3		3/09
HB0360	QUILICI, JOE 2/07	3/02	EXCEPT PUBLIC UTILITY BUYING CERTAIN PROPERTY FROM ORIGINAL COST RULE	CONCUR AS AMENDED 3/02 VOTE: UNAN		3/03
HB0372	MCKEE, JEANETTE 2/20	3/15	ELIMINATE DOUBLE EXAM AND FEE REQUIREMENT FOR CERTAIN SELLERS OF SECURITIES	CONCUR 3/15 VOTE: UNAN		3/16
HB0387	BOHARSKI, WILLIAM 2/20	3/15	CLARIFY THAT INSURANCE COMPANY CAN GIVE GOOD DRIVER DISCOUNT	CONCUR 3/17 VOTE: UNAN		3/18
HB0405	NELSON, THOMAS 2/27		ALLOW VOLUNTARY PURCHASING POOLS, REVISE ASSOCIATIONS FOR GROUP DISABILITY	VOTE:	JC/HEALTH CARE	

House BILL NO. 360

INTRODUCED BY

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING AN EXCEPTION TO THE ORIGINAL COST RULE WHEN A PUBLIC UTILITY PURCHASES PROPERTY FROM ANOTHER PUBLIC UTILITY; AMENDING SECTION 69-3-109, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 69-3-109, MCA, is amended to read:

"**69-3-109. Ascertaining property values.** The commission may, in its discretion, investigate and ascertain the value of the property of ~~every~~ each public utility actually used and useful for the convenience of the public. The commission is not bound to accept or use any particular value in determining rates~~;~~. ~~provided, that~~ However, if any value is used, ~~such~~ the value may not exceed the original cost of the property, except that the commission may include all or some of the acquisition cost of property purchased by a public utility from another public utility in the purchasing utility's rate base if the transfer of the property to the purchasing utility is in the public interest. In making ~~such~~ the investigation, the commission may avail itself of all information contained in the assessment rolls of various counties~~,~~ or in the public records of the various branches of the state government~~,~~ or of any other information obtainable, and the commission may at any time ~~of~~ on its own initiative make a revaluation of ~~such~~ the property."

NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

-END-

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By **CHAIRMAN JOHN HERTEL**, on March 2, 1995, at 8:00 a.m.

ROLL CALL

Members Present:

Sen. John R. Hertel, Chairman (R)
Sen. Steve Benedict, Vice Chairman (R)
Sen. William S. Crismore (R)
Sen. C.A. Casey Emerson (R)
Sen. Ken Miller (R)
Sen. Mike Sprague (R)
Sen. Gary Forrester (D)
Sen. Terry Klampe (D)
Sen. Bill Wilson (D)

Members Excused: N/A

Members Absent: N/A

Staff Present: Bart Campbell, Legislative Council
Lynette Lavin, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing:	HB 360, HB 326, HB 502
Executive Action:	SB 313 DO PASS
	HB 147 BE CONCURRED IN
	HB 336 BE CONCURRED IN
	HB 556 BE CONCURRED IN AS AMENDED
	HB 360 BE CONCURRED IN AS AMENDED
	HB 326 BE CONCURRED IN AS AMENDED
	HB 502 BE CONCURRED IN

HEARING ON HOUSE BILL 360

Opening Statement by Sponsor:

REP. JOE QUILICI, HD 36, Butte, distributed copies of amendments as per **EXHIBIT #1** and said **HB 360** provided for an exception to the original cost rule when a public purchase was in the best interest of the public. He referred to Line 17, saying public

interest was to be ensured. He said if a public utility bought property from another utility, the original cost plus appreciation, and not the acquisition price, was what could be rate-based. **REP. QUILICI** said he was addressing the issue because it could be in the public interest and could benefit the rate-payer to acquire the property at market value and not have to build other facilities. He said **HB 360** could benefit Montana consumers by helping utilities acquire property. He asked that **HB 360** BE CONCURRED IN.

Proponents' Testimony:

Nancy McCaffree, Public Service Commission, read her written testimony, **EXHIBIT #1A.**

Margie Thomas, Montana Power Company (MPC), expressed support for **HB 360,** and gave the following example of how the exception to the original cost rule affected MPC. She said about a year ago facilities in central Montana became available for sale; however, because of the original cost rule, MPC felt it was appropriate to bid the original cost price. She reported consequently, the bid was not accepted. If MPC had been able to bid higher, the acquisition of the property would have benefited its rate-payers. **Ms. Thomas** said a power plant would not acquire property through full-market prices unless it would be able to earn a return on the entire purchase price. She said **HB 360** would let the Commission consider whether the entire purchase price should be allowed in certain situations.

John Alke, Montana Dakota Utilities (MDU), said in the mid-80's, MDU needed more power to meet its customers' needs and was fortunate that one of its partners in two generating stations was willing to sell some of its share to MDU. He stated the share was sold at a price above the original cost appreciated, but significantly less than new construction would have cost.

Mr. Alke reported in three rate cases which occurred in Montana, North and South Dakota, litigation revealed that MDU needed the power, acted prudently in acquiring the shares and made wise business decisions. He said both North Dakota and South Dakota allowed the full cost of acquiring the shares in the rate-setting, while in Montana it was not. **Mr. Alke** said the Commission felt the original cost statute precluded the full purchase price of the shares; therefore, MDU was penalized for doing the correct thing. He said both the Commission and he felt **HB 360** was a good statute, but emphasized it only gave the discretion to mandate it. **Mr. Alke** asked the committee's support of both **HB 360** and the amendments.

REP. NORM MILLS, HD 19, Billings, said he was representing himself as a consulting communications and electrical engineer. He said he had been involved in rate cases both inside and outside the United States, and most cases involved the cost development of acquisition of plants from other companies. He

stated there were many ways to evaluate plants, and one was called replacement cost new, less observed depreciation, i.e. another way to establish value of property at the time of transfer from one utility to another. He said it was a more fair way to determine plant value than original cost less depreciation, because original cost did not consider inflationary factors. **REP. MILLS** said **HB 360** was a good bill because it was advantageous to every Montana rate-payer.

Dan Walker, US West, expressed support for **HB 360.**

Tom Hopgood, Citizens Telecommunications Company, expressed support for **HB 360** for reasons already stated.

Joan Mandeville, Montana Telephone Association, said Montana cooperatives were not regulated; therefore, they did not come under this statute; however, small regulated Montana companies did. She said her association supported **HB 360**, especially the amendments, and explained **HB 360** as written today, including some of the acquisition costs, could read "a portion of the purchase price". She maintained the intent of acquisition cost was the amount above the depreciated original cost which would be included in the rate-base. **Ms. Mandeville** explained **HB 360** would give the Commission the discretion it needed and continued the safeguards which were already in place. She urged favorable consideration for **HB 360.**

Opponents' Testimony: None.

Questions From Committee Members and Responses:

SEN. STEVE BENEDICT asked **Margie Thomas** if she prepared any amendments and she said she did. **SEN. BENEDICT** referred to Amendment #5 and suggested "previously dedicated to public use" be inserted in order to conform to the title. **Ms. Thomas** said the above phrase would not need to be included, but **SEN. BENEDICT** contended the title of a bill was required to conform to the body of the bill. He suggested **Ms. Thomas** meet with **Bart Campbell.**

SEN. TERRY KLAMPE referred to Amendment #2 and asked if "in its discretion" was superfluous. **Mr. Campbell** stated it could be eliminated.

SEN. CASEY EMERSON commented the Public Service Commission should have enough sense and judgment to consider the concerns; therefore **HB 360** could be eliminated. **Dan Elliott** said **69-3-109** was heavily relied on by the Public Service Commission to set rates, explaining the Legislature passed the cost statute in the 1970's because the book value of property, or original acquisition price, proved to be easier to understand.

SEN. EMERSON asked what would happen if **HB 360** was eliminated. **Dan Elliott** said it might be in the public interest for utility companies to pay a higher-than-original cost when buying property

from each other. He said **HB 360** alleviated the potential contention which could arise from that.

Closing by Sponsor:

REP. QUILICI said there were times when the legislature was required to pass specific legislation so regulators would know what the intent of the legislation was, which was a reason for **HB 360**. He agreed with **SEN. KLAMPE** that "may" in Amendment #2 would probably be sufficient. He said **HB 360** was good for utilities because if they were furnishing the money to buy a certain property, they should be able to rate-base it upon the Commission's recommendation it was in their best interest. He said if they couldn't buy the property, they would build new facilities which would cost everyone much more.

HEARING ON HOUSE BILL 326

Opening Statement by Sponsor:

REP. VICKI COCCHIARELLA, HD 64, Missoula, said the idea for **HB 326** came to her when a constituent who was a licensed electrician was frustrated because his work was increasingly being done by unlicensed workers, which created a threat to Montana consumers. She said he was asking for the right to monitor his own profession; therefore **HB 326**, which had already been amended several times. She distributed and explained copies of amendments as per **EXHIBIT #2**, and segments from Montana Code as per **EXHIBIT #3.**

Proponents' Testimony:

Ron Van Diest, Montana State Coalition of Electrical Workers, expressed support for **HB 326** for several reasons. (1) The State Electrical Licensing Board looked at the bill as cost-neutral to Montana, and the bill would help circumvent some of the loss which could come from the trend of moving from state to municipal control in the area of state license inspection. He said the licensing cycle for electricians and plumbers was three years, which would necessitate only one inspection of any given electrician in three years. (2) The bill had a good bipartisan sponsorship and had basic self-regulation. Most professions were required by Montana law to display a business license or permit and state statutes required licensed electricians to carry the license with them at all times; therefore, no time was lost in trying to find the license when the inspector asked to see it. (3) The bill would fit into the Uniform Operations Bill.

REP. NORM MILLS, HD 19, Billings, Registered Electrical & Mechanical Engineer, said he had experienced working through state agencies to hire employees with good-sounding credentials, only to discover the employees had no experience or training.

SEN. EMERSON remarked if all retail pharmacies qualified for the discount, manufacturers would raise their prices slightly.

Vote: The motion **SB 313 DO PASS CARRIED 6-2** by roll call vote **#1**.

EXECUTIVE ACTION ON HOUSE BILL 147

Motion/Vote: **SEN. GARY FORRESTER MOVED HB 147 BE CONCURRED IN.** The motion **CARRIED UNANIMOUSLY** by voice vote.

EXECUTIVE ACTION ON HOUSE BILL 336

Motion/Vote: **SEN. TERRY KLAMPE MOVED HB 336 BE CONCURRED IN.** The motion **CARRIED UNANIMOUSLY** by voice vote.

EXECUTIVE ACTION ON HOUSE BILL 556

Bart Campbell presented amendments HB055601.ABC, **EXHIBIT #5** and the proposed amendments by the American Council of Life Insurance, **EXHIBIT #6**, were distributed.

Motion/Vote: **SEN. BENEDICT MOVED TO ADOPT AMENDMENTS AS PER EXHIBITS #5 & #6.** The motion **PASSED UNANIMOUSLY** by voice vote.

Discussion: **SEN. EMERSON** asked if the amendments pertained only to the bill. **Mr. Campbell** said they deleted one section which had been amended in the original bill, and included two other sections which needed cleanup language.

Motion/Vote: **SEN. BENEDICT MOVED HB 556 AS AMENDED BE CONCURRED IN.** The motion **CARRIED 7-1** on voice vote, with **SEN. FORRESTER** voting "NO".

EXECUTIVE ACTION ON HOUSE BILL 360

Motion: **SEN. CASEY EMERSON MOVED TO ADOPT AMENDMENTS, EXHIBIT #7, hb360amd.**

Discussion: **Bart Campbell** explained **EXHIBIT #7** (amendments).

Vote: The motion **TO ADOPT AMENDMENTS CARRIED UNANIMOUSLY** by voice vote.

Motion/Vote: **SEN. GARY FORRESTER MOVED HB 360 AS AMENDED BE CONCURRED IN.** The motion **CARRIED UNANIMOUSLY** by voice vote.

MONTANA SENATE
1995 LEGISLATURE
BUSINESS AND INDUSTRY COMMITTEE

ROLL CALL DATE 3-2-95

NAME	PRESENT	ABSENT	EXCUSED
STEVE BENEDICT, VICE CHAIRMAN	✓		
WILLIAM CRISMORE	✓		
CASEY EMERSON	✓		
GARY FORRESTER	✓		
TERRY KLAMPE	✓		
KEN MILLER	✓		
MIKE SPRAGUE	✓		
BILL WILSON	✓		✓ arrived late presented bill to another comm.
JOHN HERTEL, CHAIRMAN	✓		

SEN:1995
wp.rollcall.man
CS-09

3/2/95

I vote yes on HB 502

yes on HB 360
& yes on Amendments

yes on HB 326
yes on Amendment

Sue Benefiel

Proxie

Vote yes on Bills [redacted]

360, 32C & 502

[signature]

2/2/95

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 1
DATE 3-2-95
BILL NO. HB 360

(Presented by Rep Zuilici)

Amendments to House Bill No. 360
Third Reading Copy

March 2, 1995

1. Title, line 5.
Following: "PROPERTY"
Strike: "FROM ANOTHER PUBLIC UTILITY"
Insert: "THAT PREVIOUSLY HAS BEEN DEDICATED TO PUBLIC USE"

2. Page 1, line 15.
Following: "may"
Insert: ", in its discretion,"

3. Page 1, line 15.
Following: "some of"
Strike: "the"
Insert: "an"

4. Page 1, line 15.
Following: "acquisition"
Strike: "cost of"
Insert: "adjustment for"

5. Page 1, line 16.
Following: "a public utility"
Strike: "from another public utility"

hb360amd

Testimony: House Bill 360
Senate Committee on
Business & Industry
March 2, 1955

Nancy McCaffree, Chair
Public Service Commission

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 1-A
DATE 3-2-95
BILL NO. AB 360

Mr. Chairman and members of the Committee:

One of the principle statutes that governs how the PSC sets rates is the "original cost" law. A utility company's rate base generally reflects the original cost of plant and equipment devoted to public service, less depreciation - or book value. The determination of book value is a fairly straightforward matter when a utility purchases or constructs new plant and equipment, but becomes more complicated when it purchases used assets from another company.

The general rule is that the original cost of property purchased by a utility is the depreciated cost of the property to the first owner devoting it to public service. Thus, if a utility purchases assets from another utility at a price which exceeds the book value, then the purchaser's rate base is limited to the book value.

This is necessary to prevent utilities from artificially inflating rate bases by acquiring property at unrealistically high prices. Also, once property is devoted to public service, ratepayers should not have to pay twice for the same asset because the property is sold to another utility. Such sales between utilities during the period prior to 1930, and the "watered common stock" that was used to pay for them is thought to be a significant factor contributing to the Great Depression.

Under some circumstances, the public interest may be served by allowing into ratebase a purchase price above book value, i.e. original cost depreciated. For example, picture a small utility not regulated by the PSC, such as a cooperative, with a small service territory surrounded by a larger utility, regulated by the PSC. It may be the larger utility could more than offset a purchase price higher than book value for the property with operating efficiencies, i.e. consolidation of payroll functions, office building functions, etc. Under the present law, the PSC probably cannot include more than the original cost purchase price (book value) in the purchaser's rate base.

The Public Service Commission supports the bill as written. The bill is permissive and specifies that the Commission must find that purchase prices above original cost depreciated (book value) are in the public interest before they may be added to rate base. If this bill, as written, is enacted into law, the PSC will review very carefully the factual circumstances of each request before including values above original cost as part of the purchasing utilities rate base.

Thank you for your time.

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 7
DATE 3-2-95
BILL NO. HB 360

Amendments to House Bill No. 360
Third Reading Copy

(Bart Campbell presented)

March 2, 1995

1. Title, line 5.
Following: "PROPERTY"
Strike: "FROM ANOTHER PUBLIC UTILITY"
Insert: "THAT PREVIOUSLY HAS BEEN DEDICATED TO PUBLIC USE"

2. Page 1, line 15.
Following: "may"
Insert: ", in its discretion,"

3. Page 1, line 15.
Following: "some of"
Strike: "the"
Insert: "an"

4. Page 1, line 15.
Following: "acquisition"
Strike: "cost of"
Insert: "adjustment for"

5. Page 1, line 16.
Following: "a public utility"
Strike: "from another public utility"

hb360amd

DATE March 2, 1995

SENATE COMMITTEE ON Business and Industry

BILLS BEING HEARD TODAY: HB 360 Rep. Public HB 326 HB 502 Rep. Cocchiarella

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Oppose
MARGIE THOMAS	Montana Power Co.	360	✓	
Ron VanDiest	I.B.E.W.	326	✓	
Rick Ahlmann	Montana Assoc. Realtors	502	✓	
[illegible]	Dept 36	360	✓	
Nancy McCaffree	PSC	360	✓	
[illegible]	PSC Staff	360	✓	
Tom Hajgood	Citizens Telecomm	360	✓	
John Alke	MDU	360	✓	
Adrian Howe	MDHES	502	✓	
Steve Mandeville	Mt Assoc Realtors	502	✓	
Jerry Driscoll	mt State Building trades	326	✓	
Dan Walker	US WEST	H 360	✓	
Joan Maddrill	Mont. Tel. Assoc.	H 360	✓	
Norm Mills	House	H 360 H 326		

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

REGISTER.F10

SENATE STANDING COMMITTEE REPORT

March 2, 1995

MR. PRESIDENT:
We, your committee on Business and Industry having had under consideration HB 360 (third reading copy -- blue), respectfully report that HB 360 be amended as follows and as so amended be concurred in.

Signed: John Hertel
Senator John R. Hertel, Chair

That such amendments read:

1. Title, line 5.
Following: "PURCHASES"
Insert: "CERTAIN"
Strike: "FROM ANOTHER PUBLIC UTILITY"

2. Page 1, line 15.
Following: "some of"
Strike: "the"
Insert: "an"
Strike: "cost of"
Insert: "adjustment for certain"

3. Page 1, line 16.
Strike: "from another public utility"

-END-

Amd. Coord.
Sec. of Senate

Sen. Mike Foster
Senator Carrying Bill

HB 360
SENATE
491145SC.SRF

HOUSE BILL NO. 360

INTRODUCED BY QUILICI, MILLS, LYNCH, MENAHAN, PIPINICH, RYAN, FOSTER, BISHOP, HARRINGTON, PAVLOVICH, JACOBSON, COCCHIARELLA, BENEDICT, BOHLINGER, GALVIN, FORRESTER, T. NELSON, SHEA, HALLIGAN, BARTLETT, REHBEIN, SPRAGUE, SCHWINDEN

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING AN EXCEPTION TO THE ORIGINAL COST RULE WHEN A PUBLIC UTILITY PURCHASES CERTAIN PROPERTY ~~FROM ANOTHER PUBLIC UTILITY~~; AMENDING SECTION 69-3-109, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 69-3-109, MCA, is amended to read:

"**69-3-109. Ascertaining property values.** The commission may, in its discretion, investigate and ascertain the value of the property of ~~every~~ each public utility actually used and useful for the convenience of the public. The commission is not bound to accept or use any particular value in determining rates~~;~~. ~~provided, that~~ However, if any value is used, ~~such~~ the value may not exceed the original cost of the property, except that the commission may include all or some of ~~the~~ AN acquisition ~~cost of~~ ADJUSTMENT FOR CERTAIN property purchased by a public utility ~~from another public utility~~ in the purchasing utility's rate base if the transfer of the property to the purchasing utility is in the public interest. In making ~~such~~ the investigation, the commission may avail itself of all information contained in the assessment rolls of various counties~~,~~ or in the public records of the various branches of the state government~~,~~ or of any other information obtainable, and the commission may at any time ~~of~~ on its own initiative make a revaluation of ~~such~~ the property."

NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

-END-